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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13  
14 The NVIDIA GPU Litigation

15 Case No. C 08-04312 JW

16 **STIPULATION AND [PROPOSED] *[Signature]***  
**ORDER RE SUPPLEMENTAL**  
**NOTICE OF SETTLEMENT**

17 This Document Relates To:

18 ALL ACTIONS

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1           By order dated September 15, 2010, this Court granted preliminary approval of the  
 2 Stipulation and Agreement of Settlement and Release (the “Preliminary Approval Order”), and  
 3 approved the Notice, the form and content of the related documents, and the Notice Plan, as  
 4 defined in the Preliminary Approval Order.

5           The Preliminary Approval Order directed the Settlement Administrator to commence the  
 6 Notice Plan, including causing direct notice to be sent to members of the Settlement Class, on or  
 7 before September 30, 2010. The Settlement Administrator completed direct notice to  
 8 approximately 5.1 million potential class members on September 30, 2010, initiated a media and  
 9 publication campaign, and established a settlement website, as contemplated by the Stipulation  
 10 and Agreement of Settlement and Release and Preliminary Approval Order.

11          The parties recently discovered that, due to a technical problem, direct notice  
 12 inadvertently was not provided to potential class members owning Dell Vostro 1700 computer  
 13 systems manufactured by Dell, Inc. After further investigation, the parties have determined that  
 14 there are approximately 86,000 additional addresses to whom direct notice could be sent, before  
 15 any de-duplication of records.

16          The parties therefore agree that it is appropriate to provide supplemental notice to the  
 17 potential class members owning Dell Vostro 1700 computer systems, and to adjust the deadlines  
 18 for objections and exclusion from the class for those potential class members only in order to  
 19 ensure that they enjoy the same 36-day time period to lodge objections and requests for  
 20 exclusions as those class members who have already received notice. *See, e.g., Dupler v. Costco*  
*21 Wholesale Corp.*, 705 F. Supp. 2d 231, 248-49 (E.D.N.Y. 2010) (permitting supplemental notice  
 22 only to subset of class who inadvertently did not receive direct notice, and where objection and  
 23 request for exclusion deadlines were extended).

24          The parties agree that the supplemental notice shall be completed on or before November  
 25 1, 2010. Such supplemental notice is appropriate, and would not cause any prejudice to any party  
 26 or potential class member or affect the current December 20, 2010 Final Approval hearing date,  
 27 which shall remain in effect.

28          In addition, the parties have agreed to amend the Stipulation and Agreement of Settlement

1 and Release to remove the requirement that the Hewlett-Packard tx1xxx series computers  
2 included with the definition of Class Computers must contain a certain product identification  
3 number in order to be included as Class Computers. The parties therefore agree to provide  
4 supplemental direct notice to owners of the Hewlett-Packard tx1xxx series computers who  
5 previously received direct notice and who otherwise satisfy the requirements of the Stipulation  
6 and Agreement of Settlement and Release are eligible to participate in the settlement upon the  
7 filing of a valid Claim Form approved by the Settlement Administrator.

8 Except as provided herein, the Stipulation and Agreement of Settlement and Release and  
9 Preliminary Approval Order shall remain in full force and effect according to their terms.

10 Accordingly, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs  
11 and NVIDIA Corporation, through their counsel of record and Interim Lead Class Counsel for  
12 Plaintiffs, that:

13 1. The Settlement Administrator shall provide supplemental notice in substantially  
14 the form attached hereto as Exhibits A, B, and C only to owners of Dell Vostro 1700 computer  
15 systems and Hewlett-Packard tx1xxx series computer systems respectively, on or before  
16 November 1, 2010, at no expense to those potential class members;

17 2. The November 5, 2010, deadline for objections and requests for exclusions  
18 contained in paragraphs 11 and 12 of the Preliminary Approval Order shall be adjusted to  
19 December 7, 2010, but only for owners of Dell Vostro 1700 computer systems and Hewlett-  
20 Packard tx1xxx series computer systems.

21 3. Except as provided herein, all other deadlines, hearing dates, terms of the  
22 Stipulation and Agreement of Settlement and Release, and provisions of the Preliminary  
23 Approval Order shall remain unchanged and in full force and effect.

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Dated: October 22, 2010

ROBERT P. VARIAN  
JAMES N. KRAMER  
JUSTIN M. LICHTERMAN  
Orrick, Herrington & Sutcliffe LLP

Dated: October 22, 2010

JEFF S. WESTERMAN  
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*/s/ Justin M. Lichterman*  
JUSTIN M. LICHTERMAN  
Attorneys for Defendant  
NVIDIA CORPORATION

The filer attests that concurrence in the filing of the document has been obtained from each of the other signatories, or from the single signatory (in the case, e.g., of a declaration) which shall serve in lieu of their signature(s) on the document.

**IT IS SO ORDERED:**

DATE: October 22, 2010

**UNITED STATES DISTRICT JUDGE**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 22, 2010, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on  
October 22, 2010.

/s/ Justin M. Licherman

Justin M. Licherman